
IV. ENVIRONMENTAL IMPACT ANALYSIS

A. IMPACTS FOUND TO BE LESS THAN SIGNIFICANT

Section 15128 of the CEQA Guidelines states:

“An EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study.”

An Initial Study was prepared for the proposed Project (Appendix A). The detailed analysis contained in the Initial Study and summarized on the following pages determined that specific impacts related to the following environmental topics would have either no impact, a less than significant impact, or a less than significant impact with mitigation. Therefore, the following environmental topics are not analyzed in greater detail in the Draft EIR.

- Aesthetics
- Agriculture and Forestry Resources
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Population and Housing
- Public Services
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

No Impact

Aesthetics

- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway

Agricultural and Forestry Resources

- Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use
- Conflict with existing zoning for agricultural use or a Williamson Act contract
- Conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production
- Loss of forest land or conversion of forest land to non-forest use
- Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use

Biological Resources

- A substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Department of Fish and Wildlife Service
- A substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Department of Fish and Wildlife Service
- A substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means

Cultural Resources

- Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5

Geology and Soils

- Potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault

- Potential substantial adverse effects, including the risk of loss, injury, or death involving landslides
- Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater

Hazards and Hazardous Materials

- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school
- Located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area
- Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires

Land Use and Planning

- Physically divide an established community

Mineral Resources

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state
- Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan

Population and Housing

- Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere

Recreation

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated
- Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment

Less-Than-Significant Impact

Aesthetics

- A substantial adverse effect on a scenic vista

- In an urbanized area, temporarily degrading existing visual character of the site

Biological Resources

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan

Energy

- Wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation
- Conflict with or obstruct a state or local plan for renewable energy or energy efficiency

Geology and Soils

- Potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking
- Potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction
- Substantial soil erosion or the loss of topsoil
- Located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse
- Located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial direct or indirect risks to life or property

Hazards and Hazardous Materials

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials
- Located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment
- Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan

Hydrology and Water Quality

- Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality

- Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows
- In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation
- Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan

Land Use and Planning

- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect

Population and Housing

- Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)

Public Services

- Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services

Utilities and Service Systems

- Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects
- Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years
- Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments
- Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals
- Comply with federal, state, and local management and reduction statutes and regulations related to solid waste

Wildfire

- Substantially impair an adopted emergency response plan or emergency evacuation plan
- Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire
- Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment
- Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes

Less-Than-Significant Impact with Mitigation

Aesthetics

- Create new sources of light or glare which would adversely affect day or nighttime views

The Project site is located in a heavily urbanized area with a variety of existing light sources including street lights, interior and exterior building lighting, and light associated with traffic on nearby roadways. Development of the proposed Project would incrementally increase the amount of nighttime lighting in the surrounding area due to new interior and exterior lighting at the creative industrial building, safety lighting in the parking lot, and lighting associated with additional vehicular traffic to and from the Project site. The City's Zoning Ordinance

includes the following policies related to outdoor lighting that would be applicable to the proposed Project:

- **Section XI-10-54.17 – Lighting Exterior.** Lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. Fixtures shall be appropriate in terms of height, style, design, scale and wattage to the use of the property. Fixtures shall be spaced appropriately to maximize pedestrian safety.

To ensure that the proposed Project complies with City requirements and that the proposed Project's final design avoids all excess light and glare, implementation of Mitigation Measure AES-1, below, would be required to ensure that potentially significant light and glare impacts are reduced to less-than-significant levels.

- **Mitigation Measure AES-1:** Outdoor lighting shall be designed to minimize glare and spillover to surrounding properties. The project design and building materials shall incorporate non-mirrored glass to minimize daylight glare. All lighting elements shall comply with Subsections XI-10-54.17 of the City's Zoning Ordinance and the proposed lighting plan shall be reviewed and approved by the City's Planning Department prior to issuance of a building permit.

Biological Resources

- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites

The Project is located within a developed, landscaped area that supports wildlife species typically associated with urban and suburban areas. Because the Project site is within a developed urban area, there are no major wildlife movement corridors that pass through or are adjacent to the site. Existing trees are located throughout and around the Project site. Trees and other landscape vegetation generally have the potential to support nests of common native bird species. All native birds, regardless of their regulatory status, are protected under the federal Migratory Bird Treaty Act and California Fish and Wildlife Code. The proposed project would result in the removal of approximately 88 protected trees. If conducted during the breeding season (February through August), vegetation removal and construction activities could directly impact nesting birds by removing trees or vegetation that support active nests. Implementation of the following mitigation measure would reduce potential impacts to nesting birds to a less-than-significant level.

- **Mitigation Measure BIO-1 Nesting Birds:** If feasible, all vegetation removal shall be conducted during the non-breeding season (i.e., September 1 to January 31) to avoid direct impacts to nesting birds. If such work is scheduled during the breeding season, a qualified biologist or ornithologist shall conduct a pre-construction survey to determine if any birds are nesting within the project site.

The pre-construction survey shall be conducted within 15 days prior to the start of work from March through May (since there is a higher potential for birds to initiate nesting during this period), and within 30 days prior to the start of work from June through July. If active nests are found during the survey, the biologist or ornithologist shall determine an appropriately sized buffer around the nest in which no work shall be allowed until the young have successfully fledged. The size of the buffer shall be determined by the biologist or ornithologist in consultation with the California Department of Fish and Wildlife, and would be based on the nesting species, its sensitivity to disturbance, and the expected types of disturbance.

Cultural Resources

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines? Section 15064.5

Through background research, including a records search of the Northwest Information Center (NWIC) and review of historic maps and aerial photography, and a desktop archaeological sensitivity analysis, no archaeological resources have been identified in the Project area. As such, no known archaeological resources that may qualify as historical resources, as defined in CEQA Guidelines § 15064.5, or unique archaeological resources, as defined in PRC § 21083.2(g), are present in the Project area. Therefore, the proposed Project would not affect any archaeological resource, pursuant to CEQA Guidelines § 15064.5.

The desktop archaeological sensitivity analysis concluded that the Project area has a moderate sensitivity for the presence of buried pre-contact archaeological resources. Because the proposed Project would involve ground-disturbing activities that may extend into undisturbed soil, it is possible that such actions could unearth, expose, or disturb subsurface archaeological resources that have not been previously identified. If such archaeological deposits are present in the Project area and were found to qualify as archaeological resources pursuant to CEQA Guidelines § 15064, impacts of the proposed Project on archaeological resources could be potentially significant. Such potentially significant impacts would be reduced to less-than-significant levels with implementation of Mitigation Measure CULT-1.

- **Mitigation Measure CULT-1 Unanticipated Discovery Protocol for Archaeological Resources:** If indigenous or historic-era archaeological resources are encountered during proposed Project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The City and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the City of their initial assessment. If the resource is indigenous, the City shall also

contact relevant California Native American Tribes to assist in determining if the resource may qualify as a tribal cultural resource.

If the City determines, based on recommendations from the qualified archaeologist and, if the resource is indigenous, relevant California Native American Tribes, that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines § 15064.5), or a tribal cultural resource (as defined in Public Resources Code § 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the proposed Project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is indigenous), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to Public Resources Code § 21083.2 and CEQA Guidelines § 15126.4. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon completion of approved treatment and under the direction of the qualified archaeologist.

- Disturb any human remains, including those interred outside of dedicated cemeteries

No human remains have been identified in the Project area through background research. Also, the land use designations for the Project area do not include cemetery uses, and no known human remains exist within the Project area. Therefore, the proposed Project is not anticipated to disturb any human remains.

However, because the proposed Project would involve ground-disturbing activities, it is possible that such actions could unearth, expose, or disturb previously unknown human remains. If human remains were discovered during proposed Project construction activities, impacts on the human remains resulting from the proposed Project would be significant if those remains were disturbed or damaged. Such potentially significant impacts would be reduced to a less-than-significant level with implementation of Mitigation Measure CULT-2.

- **Mitigation Measure CULT-2 Unanticipated Discovery Protocol for Human Remains:** If human remains are uncovered during proposed Project construction, all work shall immediately halt within 100 feet of the find and the Santa Clara County Coroner shall be contacted to evaluate the remains and follow the procedures and protocols set forth in CEQA Guidelines § 15064.5(e)(1). If the Santa Clara County Coroner determines that the remains

are Native American, the City shall contact the Native American Heritage Commission, in accordance with Health and Safety Code § 7050.5(c) and Public Resources Code § 5097.98. As required by PRC § 5097.98, the City shall ensure that further development activity avoids damage or disturbance in the immediate vicinity of the Native American human remains, according to generally accepted cultural or archaeological standards or practices, until the City has conferred with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.

Geology and Soils

- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature

Paleontological resources include fossilized remains or traces of organisms including plants, vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and microscopic plants and animals (microfossils), including their imprints, from a previous geological period. Collecting localities and the geologic formations containing those localities are also considered paleontological resources as they represent a limited, non-renewable resource and once destroyed, cannot be replaced. The Society of Vertebrate Paleontology (SVP) has established guidelines for the identification, assessment, and mitigation of adverse impacts on non-renewable paleontological resources. The SVP has helped define the value of paleontological resources and, in particular, states that significant paleontological resources are fossils and fossiliferous deposits consisting of identifiable vertebrate fossils, large or small, uncommon invertebrate, plant, and trace fossils, and other data that provide taxonomic, phylogenetic, paleoecologic, stratigraphic, and/or biochronologic information. Paleontological resources are considered to be older than recorded human history and/or older than middle Holocene (i.e., older than about 5,000 years).¹

The potential to disturb paleontological resources during Project construction depends on the types of geologic units (and their fossil-bearing characteristics) that would be encountered. Disturbing artificial fill materials (which have been identified as the uppermost materials covering the site) during project construction would not impact paleontological resources because, due to the disturbed nature of artificial fill, intact fossils are not generally found or well-preserved in these materials.

The native geologic formations on the Project site have been mapped as Pleistocene and Holocene-aged alluvial deposits.^{2,3} The results of a search of paleontological localities in the fossil collections database maintained by the University of California Museum of

¹ *Society of Vertebrate Paleontology (SVP), 2010. Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources.*

² *Graymer et al., 2006. Op. cit.*

³ *Earth Systems Pacific, 2019. Op. cit.*

Paleontology identified 5 localities (including 2 invertebrate, 1 microfossil, and 2 unidentified types of localities) in Holocene geologic formations and 14 localities (including 12 vertebrate and 2 invertebrate localities) in Pleistocene geologic formations within Santa Clara County, including a bison fossil found in Milpitas.⁴ The Project would involve subsurface construction activities which would extend below fill material and into native geologic formations. Therefore, it is possible that paleontological resources could be encountered during ground-disturbing construction activities.

Significant impacts to paleontological resources could occur during excavation into native geologic formations below existing fill material, where fossils may be buried and physical destruction of fossils could occur. Implementation of Mitigation Measure GEO-1 would reduce this impact to a less-than-significant level.

- **Mitigation Measure GEO-1:** The applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources and shall include the following directive in the appropriate contract documents. The City shall verify that the following directive is included in the appropriate contract documents:

“The subsurface of the construction site may be sensitive for paleontological resources. The contractor shall provide information to construction crews on how to recognize paleontological resources. If paleontological resources are encountered during project subsurface construction, all ground disturbing activities within 25 feet of the find shall be redirected and the City and a qualified paleontologist contacted to paleontological resources. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as animal tracks.”

The City and a qualified paleontologist shall make recommendations for the treatment of the discovery. If found to be significant, and project activities cannot avoid the paleontological resources, adverse effects to paleontological resources shall be mitigated. Mitigation may include monitoring, recording the fossil locality, data recovery and analysis, preparation of a technical report, and providing the fossil material and technical report to a paleontological repository, such as the University of California Museum of Paleontology. Public educational outreach may also be appropriate. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review.

⁴ University of California Museum of Paleontology, 2020. Collections Database, Locality Search. Available at: <https://ucmpdb.berkeley.edu/loc.html>, accessed on March 27.

Hazards and Hazardous Materials

- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment

There are two main ways that the public and/or the environment could be affected by the release of hazardous materials from the Project site, including: (1) exposing workers and/or the public to potentially contaminated soil and groundwater during construction and/or operation of the Project; or (2) exposing workers and/or the public to hazardous building materials (e.g., lead paint, asbestos) during demolition of existing structures.

The Phase I Environmental Site Assessment (Phase I ESA) prepared for the Project site revealed no evidence of recognized environmental conditions (RECs) in connection with the project site; however, the following business environmental risks were identified: elevated arsenic concentrations in soils at the Project site and Asbestos-Containing Material (ACM).

A grassy mound located at the southern end of the Project site along Gibraltar Drive consists of excess soil generated during seismic retrofit activities at the Project site in 1999.

The Phase I ESA found the soil to contain elevated concentrations of arsenic; but noted that due to historic agricultural activities, most surrounding soils in the project area do as well. Reportedly the arsenic concentrations were considered similar to background levels and regulatory authorities informed that the soils could remain on-site. No further investigation appears warranted at this time. However, future site development/excavations that require removal of these soils would likely require a soil management plan and special disposal of said soils.

Based on the age of the Project site, the Phase I ESA noted that the friable acoustical ceiling tiles may contain asbestos. In addition, the non-friable resilient floor finish assemblies, wallboard assemblies, acoustical ceiling tiles, built-up roofing materials, caulking, and mastics may contain asbestos. The Phase I ESA describes asbestos survey reports from 2014 for Building 1, Building 2, and Building 3 on the Project site. A total of 59 bulk samples were collected from the interior and exterior areas of Building 1; fibrous backing associated with beige resilient sheet flooring was identified as ACM. A total of 83 bulk samples were collected from the interior and exterior areas of Building 2; black flooring mastic under carpet in the 2nd floor, black mastic under 12" by 12" light beige with tan streaks vinyl floor tile in the 1st floor mail room and 2nd floor data center, black pedestal mastic in the 2nd floor data center, and yellow/black mastic under 12" by 12" blue with white dots vinyl floor tile in the 1st floor south hallway closet on the east side of the building and on the 2nd floor were identified as ACM. A total of 74 bulk samples were collected from the interior and exterior areas of Building 3; no materials were identified as ACM in the survey of Building 3. The Phase I ESA notes that additional ACM identified at the Project site includes asbestos cement piping located underground between Buildings 1 and 2. Nevertheless, since these materials were observed to be in good condition, no further action was recommended at this time other than maintaining same in good condition under an Asbestos

Operations and Maintenance (O&M) Program. All activities involving ACM should be conducted in accordance with governmental regulations.

The hazardous materials that remain on-site are water treatment chemicals associated with the cooling towers and chilled water system (as needed for the HVAC equipment) and batteries associated with an Uninterruptable Power Supply (UPS) system located at Building 4 (909 South Milpitas Boulevard), as well as for a UPS system located at Building 2 (1051 South Milpitas Boulevard). The Phase I ESA notes that based on an inspection performed on January 6, 2015, the only hazardous materials remaining at the Project site were stored in the secondary containment bunker to the south of Building 4. These materials were observed to be in good condition and were scheduled for removal from the site by the end of January 2015 and piping associated with former emergency generator systems were scheduled to be removed from the former generator enclosures at the Project site by mid-January 2015.

Implementation of Mitigation Measure HAZ-1, below, is required to ensure that potentially significant impacts are reduced to less-than-significant levels.

- **Mitigation Measure HAZ-1:** A Soil Management Plan (SMP) shall be prepared by a qualified environmental professional to outline soil management protocols that would be implemented during Project construction to ensure that construction workers, the public, future site occupants, and the environment would not be exposed to hazardous materials (e.g., arsenic) that may be present in soil at the Project site. The SMP shall be submitted to the City for review and approval prior to issuance of demolition or grading permits. The SMP shall include, but not be limited to the following:
 - Procedures for soil management including identification and testing of contaminants, soil stockpiling procedures, soil reuse guidelines, and soil disposal methods.
 - Requirements for notification to the City and any applicable regulatory agency(ies) of previously unknown hazardous materials found in soil during development.
 - Guidelines for controlling dust during excavation and grading.

All recommendations included in the SMP shall be implemented during the demolition, grading, and construction phase of the Project. Prior to the City's approval of building occupancy, the applicant shall provide the City with a report prepared by a qualified environmental professional documenting that soils on the Project site were managed in accordance with the SMP during demolition, grading, and construction, and that appropriate safeguards (e.g., capping of remaining arsenic impacted soil with clean fill or hardscape materials) have been incorporated into the project design, as necessary, to ensure that the public, future site occupants, and the environment would not be exposed to unacceptable health risks from residual hazardous materials in the subsurface of the Project site.

Tribal Cultural Resources

- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)

Background research, including a NWIC records search, conducted for the proposed Project identified no tribal cultural resources, as defined in PRC § 21074, in the Project site. Also, the above-mentioned work did not identify any tribal cultural resources (outside the Project site) that might be impacted by the proposed Project. Therefore, the proposed Project is not anticipated to impact any tribal cultural resources.

Although the proposed Project is not anticipated to impact any tribal cultural resources, there remains the possibility that previously unrecorded archaeological deposits, including human remains, are present in the Project area. If such deposits are present and were found to qualify as tribal cultural resources, as defined in PRC § 21074, any impacts of the proposed Project on the resource would be potentially significant. Such potentially significant impacts would be reduced to less-than-significant with implementation of Mitigation Measures CULT-1 and CULT-2.

- **Mitigation Measure CULT-1 Unanticipated Discovery Protocol for Archaeological Resources:** If indigenous or historic-era archaeological resources are encountered during proposed Project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The City and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the City of their initial assessment. If the resource is indigenous, the City shall also contact relevant California Native American Tribes to assist in determining if the resource may qualify as a tribal cultural resource.

If the City determines, based on recommendations from the qualified archaeologist and, if the resource is indigenous, relevant California Native American Tribes, that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines § 15064.5), or a tribal cultural resource (as defined in Public Resources Code § 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the proposed Project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the

resource is indigenous), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to Public Resources Code § 21083.2 and CEQA Guidelines § 15126.4. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon completion of approved treatment and under the direction of the qualified archaeologist.

- **Mitigation Measure CULT-2 Unanticipated Discovery Protocol for Human Remains:** If human remains are uncovered during proposed Project construction, all work shall immediately halt within 100 feet of the find and the Santa Clara County Coroner shall be contacted to evaluate the remains and follow the procedures and protocols set forth in CEQA Guidelines § 15064.5(e)(1). If the county coroner determines that the remains are Native American, the City shall contact the Native American Heritage Commission, in accordance with Health and Safety Code § 7050.5(c) and Public Resources Code § 5097.98. As required by Public Resources Code § 5097.98, the City shall ensure that further development activity avoids damage or disturbance in the immediate vicinity of the Native American human remains, according to generally accepted cultural or archaeological standards or practices, until the City has conferred with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.
- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe

Background research, including a NWIC records search, conducted for the proposed Project identified no tribal cultural resources, as defined in PRC § 21074, in the Project site. Also, the above-mentioned work did not identify any tribal cultural resources (outside the Project site) that might be impacted by the proposed Project. Therefore, the proposed Project is not anticipated to impact any tribal cultural resources.

Although the proposed Project is not anticipated to impact any tribal cultural resources, there remains the possibility that previously unrecorded archaeological deposits, including human remains, are present in the Project area. If such deposits are present and were found to qualify as tribal cultural resources, as defined in PRC § 21074, any impacts of the proposed Project on the resource would be potentially significant. Such potentially significant impacts would be reduced to less-than-significant with implementation of Mitigation Measures CULT-1 and CULT-2.

- **Mitigation Measure CULT-1 Unanticipated Discovery Protocol for Archaeological Resources:** If indigenous or historic-era archaeological resources are encountered during proposed Project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The City and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the City of their initial assessment. If the resource is indigenous, the City shall also contact relevant California Native American Tribes to assist in determining if the resource may qualify as a tribal cultural resource.

If the City determines, based on recommendations from the qualified archaeologist and, if the resource is indigenous, relevant California Native American Tribes, that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines § 15064.5), or a tribal cultural resource (as defined in Public Resources Code § 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the proposed Project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is indigenous), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to Public Resources Code § 21083.2 and CEQA Guidelines § 15126.4. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon completion of approved treatment and under the direction of the qualified archaeologist.

- **Mitigation Measure CULT-2 Unanticipated Discovery Protocol for Human Remains:** If human remains are uncovered during proposed Project

construction, all work shall immediately halt within 100 feet of the find and the Santa Clara County Coroner shall be contacted to evaluate the remains and follow the procedures and protocols set forth in CEQA Guidelines § 15064.5(e)(1). If the county coroner determines that the remains are Native American, the City shall contact the Native American Heritage Commission, in accordance with Health and Safety Code § 7050.5(c) and Public Resources Code § 5097.98. As required by Public Resources Code § 5097.98, the City shall ensure that further development activity avoids damage or disturbance in the immediate vicinity of the Native American human remains, according to generally accepted cultural or archaeological standards or practices, until the City has conferred with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.

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